REMARKS

In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application.

The current Final Office Action, dated 4/8/04, repeats the rejections and reasoning that were set forth in the previous Office Action, dated 10/20/03, to which Applicant has already responded in its "Response To Office Action Dated October 20, 2003". Accordingly, in addition to the following remarks, Applicant incorporates herein by reference, the entire text of the "Response To Office Action Dated October 20, 2003".

§102/§103 Rejections

Claims **18** and **20-21** are rejected under 35 U.S.C. §102(a) as allegedly being anticipated by RealPlayer G2™ © 1998 (hereinafter, RealPlayer) as supported by the screenshots (hereinafter "Screenshots", "Screenshot [number]", etc.) provided with the original PTO-892 Notice of References cited mailed 9/25/02, and the press release "Realnetworks Ships Final Release of Realsystem G2, Next Generation Media Delivery System" (hereinafter "Press Release") provided with the PTO-892 Notice of References cited mailed 2/27/03. In the alternative, claims 18 and 20-21 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over RealPlayer [supported by the Screenshots] and the Press Release. Applicant respectfully traverses the rejections.

Claim 18 recites in part:

> a graphical user interface of a Web browser displaying Web page content in a browser pane . . .

at least one speaker for playing a first source of streaming media

. . . .

said graphical user interface comprising a radio toolbar for displaying at least one button capable of controlling said first source of streaming media irrespective of the Web page content being browsed.

The Press Release discloses a media delivery system (i.e., RealPlayer; specifically RealPlayer G2) that includes servers, players, and producers enabling users to search and connect to a range of media content on the Web (Press Release; page 1). The search capability incorporated into RealPlayer enables a user to search Web pages limited to those Web pages that feature RealAudio and RealVideo content. A search field within the user interface of RealPlayer allows a user to implement a search for RealAudio and RealVideo content (Press Release; page 2, paragraph "RealAudio and RealVideo Search"). RealPlayer includes an AutoUpdate feature that notifies a user when a new update to RealPlayer is available. The Press Release indicates that installation of such updates is only "one button away" (Press Release; page 2, paragraph "AutoUpdate").

The Screenshots (e.g., Screenshots 2, 3, 5) illustrate the user interface of RealPlayer which includes control buttons for play, pause, stop, and volume. The RealPlayer interface also includes an audio/video search bar to enter a search for RealAudio and RealVideo content provided by Web pages that feature RealAudio and RealVideo content. Screenshot 2 illustrates within the minibrowser (right half of Screenshot 2), the AutoUpdate feature which provides a notification to the user regarding an available update to RealPlayer and a prompt for the user to click on the notification in order to update the player.

There is nothing in either the Press Release or the Screenshots that teaches or suggests that RealPlayer's play, pause, stop, and/or volume button controls are used

for anything other than controlling RealAudio content or RealVideo content that is currently playing on RealPlayer and which is currently being identified or displayed within the minibrowser (right half of Screenshot 2). That is, there is nothing in the Press Release or the Screenshots that teaches or suggests that any source of streaming media is controlled *irrespective* of content displayed within the minibrowser (right half of Screenshot 2). Thus, RealPlayer's play, pause, stop, and/or volume button controls are used to control RealAudio content or RealVideo content that is currently playing on RealPlayer and being identified or displayed within the minibrowser (right half of Screenshot 2). RealPlayer's play, pause, stop, and/or volume button controls are not used to control RealAudio content or RealVideo content that is not currently being identified or displayed within the minibrowser.

Furthermore, as noted above, the AutoUpdate feature provides a notification to the user that an update to RealPlayer is available. The AutoUpdate feature prompts the user to click on the notification in order to update the player. There is nothing in the Press Release or the Screenshots that teaches or suggests that any source of streaming media is being controlled, or is controllable by, any of the play, pause, stop, and/or volume button controls during such an AutoUpdate notification. In fact, the AutoUpdate notification that appears in Screenshot 2 states that "This service is no longer available in this version of the RealPlayer", and thereby *precludes* the possibility that RealPlayer can be playing media *during* such an AutoUpdate notification, because the notification itself is telling the user that the desired media *cannot* be played by the current version of RealPlayer. Thus, there is not a source of streaming media that is controllable by any of the play, pause, stop,

and/or volume button controls during, or *irrespective* of, such an AutoUpdate notification being displayed within the minibrowser (right half of Screenshot 2).

For at least these reasons, it cannot fairly be said that RealPlayer, supported by the Screenshots and the Press Release, teaches or suggests all the elements of claim 18 which include a:

> graphical user interface comprising a radio toolbar for displaying at least one button capable of controlling said first source of streaming media irrespective of the Web page content being browsed.

Because the cited references do not set forth all the elements of claim 18, claim 18 is not anticipated by the references. Accordingly, the 102(a) rejection to Applicant's claim 18 is not supported and Applicant respectfully requests that the rejection be removed. Furthermore, because the prior art references fail to teach or suggest all the elements of Applicant's claim 18, the 103(a) rejection cannot stand, and Applicant respectfully requests that the 103(a) rejection of claim 18 also be removed.

In addition, the Office admits that RealPlayer does not show (e.g., in the Screenshots) that the radio toolbar of RealPlayer has at least one button for controlling the first source of streaming media irrespective of the Web page content being browsed (Office Action, page 3). The Office asserts, however, that the screenshots of RealPlayer imply that the radio toolbar of RealPlayer has at least one button for controlling the first source of streaming media irrespective of the Web page content being browsed. As examples, the Office indicates that the "preset stations and the auto update feature are irrespective of each other", and that "the user of RealPlayer may search the Web while playing the streaming media, as indicated by the 'excite' and 'search' areas within screenshot 2". The Office further relies on

the Press Release under the section, "RealAudio and RealVideo Search", as describing integrating the RealPlayer with a Web browser.

As noted above, however, the "AutoUpdate" feature of RealPlayer "enables . . . users to always be up-to-date with the latest player technology. AutoUpdate automatically notifies users when new updates to RealPlayer G2 are available for electronic download, simplifying installation since updates are now only one button away" (Press Release, page 2, AutoUpdate section). As noted above, the AutoUpdate notification that appears in Screenshot 2 states that "This service is no longer available in this version of the RealPlayer", and thereby *precludes* the possibility that RealPlayer can be playing media *during* such an AutoUpdate notification, because the notification itself is telling the user that the desired media *cannot* be played by the current version of RealPlayer.

Regarding the "Presets" in RealPlayer, there is no indication from the Press Release or from RealPlayer itself (e.g., Screenshot 2) that the "Presets" are anything but a preferred list of preset channels that a user can switch between in order to access desired media. Nothing in either the Press Release or the Screenshots indicates that accessing media using a Preset can occur *irrespective* of the occurrence of an AutoUpdate as the Office suggests. Screenshot 2 clearly indicates that the only thing happening is the AutoUpdate feature providing an update notice. RealPlayer is not delivering other media at that time. The AutoUpdate feature is informing a user that the present version of RealPlayer cannot deliver the desired media (and therefore, *is not* playing the media), and that RealPlayer needs to be updated *prior to* RealPlayer delivering the media. In Screenshot 2, the tracking line on the tool bar next to the play, pause, and stop buttons shows that no other media is being played by RealPlayer while the AutoUpdate feature is presenting the update notification.

Furthermore, the description of the AutoUpdate feature in the Press Release indicates that "updates are now only one button away". Along with Screenshot 2, this indicates that active participation by a user (by clicking a button) directs RealPlayer to perform an update, and that during such updates RealPlayer does not deliver other media.

Thus, there is nothing about the AutoUpdate feature and/or the Presets of RealPlayer either from the Screenshots or the Press Release that expresses or implies that the radio toolbar of RealPlayer has at least one button for controlling the first source of streaming media *irrespective* of the web page content being browsed.

In addition, the RealPlayer Screenshots indicate that RealPlayer is configured such that there is no physical location available in which to *display* Web page content being browsed while RealPlayer also *displays* a first source of streaming media. Referring to Screenshot 2, the dark area on the left side of the Screenshot is used by RealPlayer as a list of Channels from which a user may select to have media from a selected channel displayed in the area on the right side of the Screenshot. Thus, Web page content being browsed using the "excite" search feature cannot be displayed at the same time RealPlayer displays other streaming media. Therefore, it cannot fairly be said "that the radio toolbar of RealPlayer has at least one button for controlling the first source of streaming media irrespective of the web page content being browsed", because if Web page content being browsed in RealPlayer is displayed in the right side of the Screenshot RealPlayer, then the streaming media cannot also be displayed in the right side of the Screenshot.

For these additional reasons, it is clear that the cited references fail to teach, suggest, or imply the elements of Applicant's claim 18. Accordingly, the 102(a)

rejection to Applicant's claim 18 is not supported and Applicant respectfully requests that the 102(a) rejection of claim 18 be removed.

Furthermore, because a prima facie case of obviousness requires that the prior art reference (or references when combined) must teach or suggest all the claim limitations (MPEP 2142, 2143), and because the prior art references fail to teach or suggest all the elements of Applicant's claim 18, the 103(a) rejection cannot stand. Applicant therefore respectfully requests that the 103(a) rejection of claim 18 be withdrawn.

Regarding the 103(a) rejection of claim 18, the Office asserts that it would have been obvious "to ensure that the buttons in the radio toolbar of RealPlayer control the first source of streaming media irrespective of the Web page content being browsed". However, as noted above, RealPlayer cannot display streaming media content while also displaying Web content. Various aspects of RealPlayer, such as the left area of Screenshot 2, which shows a list of Channels from which a user may select while the right area of Screenshot 2 displays media, reveal that RealPlayer is not suggesting that "the buttons in the radio toolbar of RealPlayer control the first source of streaming media irrespective of the Web page content being browsed". Therefore, it is not accurate to say it would be obvious "to ensure that the buttons in the radio toolbar of RealPlayer control the first source of streaming media irrespective of the Web page content being browsed". For these additional reasons, the 103(a) rejection of claim 18 cannot stand, and Applicant respectfully requests that this rejection be withdrawn.

Claims 20-21 include various elements which parallel those elements of claim 18 already discussed above. More specifically, claim 20 recites in part:

a graphical user interface of a Web browser displaying Web

page content in a browser pane . . .

at least one speaker for playing a first source of streaming media . . .

said graphical user interface comprising at least one explorer bar . . . allowing user input regarding the first source of streaming media irrespective of the Web page content present in the browser pane.

Claim 21 recites in part:

a radio server component for playing a radio source of streaming media irrespective of content being displayed in a simultaneously used Web browser . . .

an interfacing component for communicating with the radio server component . . .

at least one radio client component communicating through the interfacing component in order to provide instructions to the radio server component regarding the radio source of streaming media.

In addition, the Office rejects claims 20-21 with the same references and reasoning used in its rejection of claim 18. Therefore, the arguments set forth above regarding the rejection of claim 18 apply equally to the rejection of claims 20-21. Accordingly, both the 102(a) and 103(a) rejections of claim 20-21 are not supported by the cited prior art, and Applicant respectfully requests that these rejections of claims 20-21 be removed.

Claim 19 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over RealPlayer and Applicant's Admitted Prior Art (hereinafter AAPA). Applicant respectfully traverses the rejections.

Claim 19 includes various elements which parallel those elements of claim 18 already discussed above. More specifically, claim 19 recites in part:

a graphical user interface of a Web browser displaying Web page content in a browser pane . . .

at least one speaker for playing a first source of streaming media . . .

said graphical user interface comprising:
a) a radio toolbar displaying a plurality of radio-toolbar buttons for controlling said first source of streaming media irrespective of the Web page content being browsed . . . .

As clarified herein above with respect to arguments set forth regarding parallel elements of claim 18, RealPlayer does not teach or suggest these elements. Furthermore, AAPA is cited only for its purported teaching of a toolbar which contains a play button, mute button, volume slider, and information area, and to support an assertion that it would have been obvious to place the volume, slider, radio-station buttons, and information area of RealPlayer in the same toolbar as the play button as shown in the AAPA. However, AAPA is not cited for, nor is there present within the AAPA, any suggestion of the elements noted above in claim 19, and as argued above with respect to claim 18. Accordingly, AAPA does not remedy the deficiencies of the RealPlayer screenshots and the Press Release noted above, and claim 19 is allowable over the combination of these references for these additional reasons.

Response to Arguments

In its Response to Arguments section, the Office indicates that Applicant's arguments have been fully considered but are not persuasive for various reasons. For example, at page 7 of the Office action, the Office states that AutoUpdates is simply content that is shown in a minibrowser (right half of screenshot 2) of

RealPlayer, and since a 'Preset" does nothing more than change between channels of media, the selection of a "Preset" would not have changed the content in the minibrowser of RealPlayer. However, Applicant refers the Office to the "Channels" section of Screenshot 2 and the "RealChannels" paragraph on page 2 of the Press Release, and notes that the content displayed in the minibrowser (right half of screenshot 2) of RealPlayer depends upon selection of one of such channels (e.g., Video Music Network, Oxygen, CNN, ESPN, etc.), and therefore, the content displayed in the minibrowser is not displayed *irrespective* of a selection of "Preset" or "Channel". A selection of a "Preset" or "Channel" determines what is displayed in the minibrowser and also determines the content to which the play, pause, stop, and/or volume button controls apply. Thus, there is no "button capable of controlling said first source of streaming media irrespective of the Web page content being browsed".

The Office next states that it is unclear how web page content may be browsed without being displayed, and that the minibrowser of RealPlayer clearly shows a display area for displaying web page content. In response, Applicant notes that the content being displayed in the minibrowser of RealPlayer is that content which is streaming to RealPlayer and which is controllable via the play, pause, stop, and/or volume button controls of RealPlayer. Again, therefore, Applicant respectfully suggests that RealPlayer does not teach a "button capable of controlling said first source of streaming media irrespective of the Web page content being browsed".

The Office next states that the section to the right in Screenshot 2 shows hyperlinks and web content and is a minibrowser, and the fact that this pane may be used to display media from a selected channel on the left does not take away from

the fact that the pane may show web content. In response, Applicant again points out that the content displayed in the minibrowser is that content which is streaming to RealPlayer and which is controllable via the play, pause, stop, and/or volume button controls of RealPlayer, and that therefore, RealPlayer is not teaching a "button capable of controlling said first source of streaming media irrespective of the Web page content being browsed".

Conclusion

All pending claims, 18 - 21, are believed to be in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the present application. Should any issue remain that prevents immediate issuance of the application, the Examiner is encouraged to contact the undersigned attorney to discuss the unresolved issue.

Respectfully Submitted,

Dated: 6/30/04   By: Nathan R. Rieth
                                        Nathan R. Rieth
                                        Reg. No. 44302
                                        (509) 324-9256; X233